

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

**ABYSSINIA BALLARD
ADC #134308**

PLAINTIFF

v.

NO. 4:07cv00076 GTE-HLJ

DALE REED, et al

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Recommended Disposition received from Magistrate Judge Henry L. Jones and the objections filed in response, and has further reviewed the relevant record de novo. The Findings and Recommendations are adopted in their entirety as this Court's findings.

Accordingly,

IT IS, THEREFORE, ORDERED that Defendants' Motion for Judgment on the Pleadings (Docket No. 45) be, and it is hereby GRANTED.

IT IS FURTHER ORDERED that Plaintiff's Complaint be, and it is hereby, DISMISSED without prejudice to re-file after exhaustion of his available remedies, and that this dismissal should be considered a "strike" within the meaning of the PLRA.¹

IT IS SO ORDERED this 23rd day of October, 2007.

/s/Garnett Thomas Eisele
UNITED STATES DISTRICT JUDGE

¹

This dismissal is considered a "strike" within the meaning of the Prison Litigation Reform Act (PLRA), 42 U.S.C. § 1997e, which provides that a prisoner may not file a pro se civil rights action or appeal if the prisoner has, on three or more prior occasions, filed an action or appeal that was dismissed as frivolous, malicious or for failure to state a claim, unless the prisoner is under imminent danger of serious physical injury.